

Attorney Docket No.: B8/B8 CIP DIV4  
(000441-0030-106)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Walter C. Fiers  
Application No. : 08/452,658 Confirmation No. : 5499  
Filed : May 25, 1995  
For : DNA SEQUENCES, RECOMBINANT DNA MOLECULES  
AND PROCESSES FOR PRODUCING HUMAN FIBROBLAST  
INTERFERON-LIKE POLYPEPTIDES  
Group Art Unit : 1634  
Examiner : James Martinelli

New York, New York  
September 9, 2009

**Mail Stop Issue Fee**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

AMENDMENT UNDER 37 C.F.R. § 1.312 AND  
SUBMISSION OF DOCUMENT FROM PENDING INTERFERENCE

Sir:

**Amendment Under 37 C.F.R. § 1.312**

Pursuant to 37 C.F.R. § 1.312, applicant respectfully requests entry of the following amendment in the above-identified application. Applicant is filing this amendment before payment of the issue fee (due on or before November 9, 2009). Thus, this amendment is timely filed.

Applicant acknowledges with appreciation the Examiner's allowance of claims 31, 33 and 34, as set forth in the August 7, 2009 Notice of Allowance and Issue Fee Due and Notice of Allowability ("Notice of Allowability").

This Amendment is specifically in response to the August 7, 2009 Notice of Allowability. In that Notice, the Examiner states that several documents listed on applicant's

July 20, 1995 Information Disclosure Statement were inadvertently not initialed (they are listed on the form PTO-892 attached to the August 4, 2009 Notice of Allowability). Applicant thanks the Examiner for noting the missing initials.

Two of the documents identified on the form PTO-892 are incorrectly cited. Applicant provides herewith the correct citation:

<u>Foreign Patent Document</u>	<u>Date</u>	<u>Country</u>	<u>Name</u>
GB 2,031,434	04-1980	GB	Rutter et al.
GB 2,037,296	07-1980	GB	Pestka et al.

Applicant requests correction of the form PTO-892 (attached to the August 4, 2009 Notice of Allowability). For the convenience of the Examiner, applicant has provided a copy of the form PTO-892 marked to show the corrections (Appendix A).

The August 7, 2009 Notice of Allowability also does not refer to the Supplemental Information Disclosure Statement filed on July 8, 2009. Applicant requests that the Examiner consider the July 8, 2009 Supplemental Information Disclosure Statement by returning an initialed form PTO/SB/08.

Applicant respectfully requests that the Examiner allow and enter the amendments requested herein, without withdrawing this application from issue.

**Submission of Document From Pending Interference**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97, applicant makes the following document of record in the above-identified patent application:<sup>1</sup>

- Decision On Order To Show Cause, Fiers v. Sugano, Interference 105,661, Paper 65 (August 4, 2009)

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<sup>1</sup> For the Examiner's convenience, applicant has also enclosed a completed Form PTO/SB/08/B listing this document.

The above-identified document was received by the undersigned on August 4, 2009 in a pending interference related to recombinant interferon-beta and its DNA. Applicant encloses herewith a copy of the document.


This document was not cited in a communication from a foreign patent office in a counterpart foreign application, and this document was not known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Submission. 37 C.F.R. § 1.97(e)(2).

Applicant requests that the cited document be (1) fully considered by the Examiner during the course of examination of this application, and (2) printed on any patent issuing from this application. Additionally, applicant requests that a copy of Form PTO/SB/08/B, as considered and initialed by the Examiner, be returned with the next communication.

This Submission is being filed after the mailing date of a Final Office Action but before the payment of the issue fee. In accordance with 37 C.F.R. § 1.97(d), this Submission is accompanied by the above statement under 37 C.F.R. § 1.97(e)(2) and the fee set forth in 37 C.F.R. § 1.17(p).

Applicant hereby authorizes the Director to charge the \$180.00 fee set forth in 37 C.F.R. § 1.17(p). The Director is authorized to charge payment of the fee and any additional fees required in connection with this Submission, or to credit any overpayment, to Deposit Account No. 06-1075, Order No. 000441-0030-106.

Respectfully submitted,



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# APPENDIX A

# Notice of References Cited

Applicant/Control No.

08/452,858

Applicant(s)/Patent Under  
Reexamination  
FIERS, WALTER C.

Examiner

James Martinell

Art Unit

1634

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## U.S. PATENT DOCUMENTS

* A	Document Number Country Code-Number-Kind Code	Date MM-Y-YY	Name	Classification
A	US-			
B	US-			
C	US-			
D	US-			
E	US-			
F	US-			
G	US-			
H	US-			
I	US-			
J	US-			
K	US-			
L	US-			
M	US-			

## FOREIGN PATENT DOCUMENTS

* A	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
N	GB-1,521,032	08-1978	GB	Pioli et al	---
O	UK-2,033,434A (26,364,14)	04-1980	UK-GB	Rutter et al	---
P	UK-2,032,296A (26,263,121)	07-1980	UK-GB	Pestka et al	---
Q					
R					
S					
T					

## NON-PATENT DOCUMENTS

* A	Include as applicable: Author, Title, Date, Publisher, Edition or Volume, Pertinent Pages
U	C. Brack et al. "An analysis of the human interferon- $\alpha$ gene family" (preprint). Date unavailable.
V	J. Tavernier et al. Evidence for a unique human fibroblast interferon (IFN $\beta$ 1) chromosomal gene, devoid of intervening sequences", Laboratory of Molecular Biology (preprint). Date unavailable.
W	J. Treuner et al. "Successful treatment of nasopharyngeal carcinoma with interferon" (preprint). Date unavailable.
X	A.G. Stewart et al. "The effects of priming with human fibroblast interferon on the induction of the mRNA for interferon and other proteins", Searle Research Laboratories (preprint). Date unavailable.

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.02(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

# **Notice of References Cited**

Application/Control No.

09/452,858

Applicant's Patent Under  
Reexamination  
PIERS, WALTER C

Examiner

James Martinell

Art Unit

1534

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	A	US-			
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	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
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	J	US-			
	K	US-			
	L	US-			
	M	US-			

## **FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

## **NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title, Date, Publisher, Edition or Volume, Pertinent Pages)
*	U	Malik, "Biotechnology And Where It Is Going" (preprint) ("Malik II")
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 147.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.